

with FHFA or any person who formerly held such an appointment; any conservator appointed by FHFA; or any agent or independent contractor acting on behalf of FHFA, even though the appointment or contract has terminated.

*FHFA* means the Federal Housing Finance Agency and includes its predecessor agencies, the Office of Federal Housing Enterprise Oversight (OFHEO) and, the Federal Housing Finance Board (FHFB). FHFA is an agency responsible for the regulation or supervision of financial institutions.

*FOIA Officer* and *Chief FOIA Officer* are persons designated by the Director of FHFA to process and respond to requests for FHFA records under the FOIA. The mailing address for the FOIA Officer or the Chief FOIA Officer is FHFA, 1700 G Street, NW., Washington, DC 20552.

*Readily reproducible* means that the requested record or records exist in electronic format and can be downloaded or transferred intact to a computer disk, tape, or other electronic medium with equipment and software currently in use by FHFA.

*Record* means information or documentary material FHFA maintains in any form or format, including electronic, which FHFA—

(1) Created or received under federal law or in connection with the transaction of public business;

(2) Preserved or determined is appropriate for preservation as evidence of FHFA's operations or activities or because of the value of the information it contains; and

(3) Controls at the time it receives a request for disclosure.

*Regulated entities* means the Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Federal National Mortgage Association ("Fannie Mae"), any Federal Home Loan Bank and/or any affiliate thereof that is subject to the regulatory authority of FHFA.

*Requester* means any person seeking access to FHFA records under the FOIA.

*Search time* means the amount of time spent by or on behalf of FHFA in attempting to locate records responsive to a request, manually, or by electronic means, including page-by-page or line-by-line identification of respon-

sive material within a record or extraction of electronic information from electronic storage media.

*Submitter* means any person or entity providing confidential information to the government. The term submitter includes, but is not limited to corporations, state governments, and foreign governments.

*Unusual circumstances* means the need to—

(1) Search for and collect records from agencies, offices, facilities, or locations that are separate from the office processing the request;

(2) Search, review, and duplicate a voluminous amount of separate and distinct records in order to process a single request; or

(3) Consult with another agency or among two or more components of FHFA that have a substantial interest in the determination of a request.

### § 1202.3 What information can I obtain through FOIA?

(a) *General.* FHFA generally follows a policy prohibiting employees from releasing or disclosing confidential or otherwise non-public information that FHFA possesses, except as authorized by this part or by the Director of FHFA, when the disclosure is necessary for the performance of official duties

(b) *Records.* You may request that FHFA disclose to you its records on a subject of interest to you. The FOIA only requires the disclosure of records. It does not require FHFA to create compilations of information or to provide narrative responses to questions or queries. Some information is exempt from disclosure.

(c) *Reading rooms.* (1) FHFA maintains electronic and physical reading rooms. The physical reading room is located at 1700 G Street, NW., Fourth Floor, Washington, DC 20552, and is open to the public by appointment from 9 a.m. to 3 p.m. each business day. For an appointment, contact the FOIA Officer by calling 202-414-6425 or by e-mail at [foia@fhfa.gov](mailto:foia@fhfa.gov). The electronic reading room is part of the FHFA Web site at <http://www.fhfa.gov>.

(2) Each reading room has the following records created by FHFA or its predecessor agencies after November 1,

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1996, and current indices to all of the following records created by FHFA or its predecessor agencies before or after November 1, 1996:

- (i) Final opinions or orders issued in adjudication;
- (ii) Statements of policy and interpretation that are not published in the FEDERAL REGISTER;
- (iii) Administrative staff manuals and instructions to staff that affect a member of the public, and are not exempt from disclosure under FOIA; and
- (iv) Copies of records released under FOIA that FHFA determines have become or are likely to become the subject of subsequent requests for substantially the same records.

[74 FR 2342, Jan. 15, 2009, as amended at 74 FR 18624, Apr. 24, 2009]

### § 1202.4 What information is exempt from disclosure?

(a) *General.* Unless the Director of FHFA, his or her designee, any FHFA regulation, or a statute specifically authorizes disclosure, FHFA will not release records of matters that are—

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, and is in fact properly classified pursuant to such Executive order.

(2) Related solely to FHFA's internal personnel rules and practices.

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that such statute—

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(5) Contained in inter-agency or intra-agency memoranda or letters that would not be available by law to a private party in litigation with FHFA.

(6) Contained in personnel, medical or similar files (including financial files) the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(7) Compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information—

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution or an entity that is regulated and examined by FHFA that furnished information on a confidential basis, and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(8) Contained in or related to examination, operating, or condition reports that are prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) *Discretion To Apply Exemptions.* Although records or parts of them may be exempt from disclosure, FHFA may elect under the circumstances of any particular request not to apply an exemption. This election does not generally waive the exemption and it does not have precedential effect. FHFA may still apply the exemption to any other records or portions of records, regardless of when the request is received.